

UNITED STATES OF AMERICA)
)
v.)
)
DARREN WILDER)
)

Docket No.: 04 CR 10217 GAO

AFFIDAVIT OF PETER CHARLES HORSTMANN, ESQUIRE

I, Peter Charles Horstmann, Esquire, depose and state the following:


1. I am the attorney for the Defendant in the instant matter.
2. I was present at a multi-day probation revocation hearing before Judge Saris at which Special Agent Colleen Forgetta testified about her investigation in to the instant case.
3. Four images from "lust-gallery.com" were introduced into evidence at the hearing.
4. These images contained nude pictures of children in addition to alleged child pornography.
5. I am also aware through a defense investigator that "lust-gallery.com" currently contains images of nude adult photographs and adult pornography.
6. "Lust-gallery.com" permits its members to view images without downloading them.
7. The fact that the website subscribed to by Mr. Wilder contained lawful

mentioned in the Affidavit in support of the Search Warrant.

8. Based upon information and belief Special Agent Forgetta's Affidavit was intended to provide the Magistrate with the mistaken impression that "lust-gallery.com" contains only images of child pornography, which is not true.
9. A defense expert has reviewed the alleged webpage mentioned in paragraphs 31 and 32 of the Affidavit and has determined that it is not the main page for the website.
10. Without the main page it is impossible to determine how misleading the Affidavit was with respect to the overall content of the website.
11. With or without the misleading information, there is no evidence set forth in Special Agent Forgetta's Affidavit that the Defendant committed any crime including the possession or caused the transmission of child pornography.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 29th

DAY OF OCTOBER, 2004.


Peter Charles Horstmann, Esquire